

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
WESTERN WIRELESS CORPORATION )  
 )  
Petition for Designation as an )  
Eligible Telecommunications Carrier )  
In the State of Wyoming )

CC DOCKET 96-45  
**RECEIVED**  
DEC 17 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**COMMENTS OF  
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

The Cellular Telecommunications Industry Association ("CTIA")<sup>1</sup> hereby submits comments in support of the Petition for Designation as an Eligible Telecommunications Carrier ("ETC") filed by Western Wireless Corporation ("Western Wireless").<sup>2</sup> Western Wireless seeks ETC designation for Wyoming and asserts that the FCC has the authority to grant ETC status pursuant to Section 214(e)(6) of the Communications Act.

Section 214(e)(6) provides for ETC designation of carriers not subject to state commission jurisdiction. Specifically, Section 214(e)(6) states, in relevant part:

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the

<sup>1</sup> CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including 48 of the 50 largest cellular and broadband personal communications service ("PCS") providers. CTIA represents more broadband PCS carriers and more cellular carriers than any other trade association.

<sup>2</sup> Petition for Designation as an Eligible Telecommunications Carrier, filed September 29, 1999, Western Wireless Corporation.

requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable federal and State law.<sup>3</sup>

**A. Western Wireless Is Not Subject To The Jurisdiction of The Wyoming State Commission**

Pursuant to Section 214(e)(6), the Commission shall designate as an ETC a common carrier providing telephone exchange service and exchange access service that is not subject to the jurisdiction of a State commission, so long as the carrier otherwise meets the Act's requirements. The Wyoming PSC concluded that Wyoming law does not provide it with statutory authority to consider Western Wireless' application for ETC designation.<sup>4</sup> Moreover, the Wyoming PSC stated that Western Wireless was not without a forum, noting that Section 214(e)(6) of the Communications Act expressly provides for FCC jurisdiction in the absence of state commission jurisdiction.<sup>5</sup> The fact that the Wyoming PSC has no authority to grant ETC status to wireless carriers triggers 214(e)(6). Thus, the only regulatory body empowered to grant ETC status to Western Wireless for the requested service areas in Wyoming is the FCC.<sup>6</sup>

---

<sup>3</sup> 47 U.S.C. Section 214(e)(6) (emphasis added).

<sup>4</sup> *In the Matter of the Amended Application of WWC Holding Co., Inc., (Western Wireless) for Authority to be Designated as an Eligible Telecommunications Carrier*, Docket No. 70042-TA-98-1, Record No. 4432, Issued August 13, 1999, at ¶ 16. This decision is available electronically at <http://psc.state.wy.us/orders/70042-1-5867.htm> ("Wyoming Order").

<sup>5</sup> *Id.*

<sup>6</sup> The Public Service Commission of Wyoming reached this conclusion even though it had express statutory authority over CMRS carriers' contributions to the state's universal fund, and even though it retained jurisdiction over the quality of cellular service to the extent not preempted by federal law. *Order Granting Motion to Dismiss Amended Application*, Docket No. 70042-TA-98-1 (PSC of Wyoming, Aug. 13, 1999), at ¶ 12, and ¶ 16.

**B. Western Wireless Offers All Of the Services Supported by Universal Service Support Mechanisms**

Western Wireless addressed the nine services and functionalities identified in the Commission's rules, 47 C.F.R. 54.101(a), that are the core services to be offered by an ETC and supported by federal universal service support mechanisms.<sup>7</sup> Western Wireless's universal service offering will be provided throughout its cellular service area in Wyoming over its existing cellular network infrastructure and spectrum, including the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used to serve existing mobile cellular service subscribers.<sup>8</sup> Western Wireless further states that it will deploy any additional facilities necessary to provide service to any requesting customer within the designated service area.<sup>9</sup> Western Wireless has satisfied the requirements of Sections 254 and 214(e)(1)(A) of the Communications Act of 1934 and Section 54.101(a) of the Commission's rules regarding ETC eligibility.

---

<sup>7</sup> Western Wireless petition at 7-13.

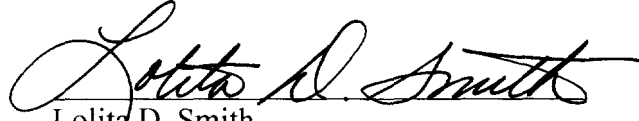
<sup>8</sup> Western Wireless at 3.

<sup>9</sup> *Id.*

**C. Conclusion**

For the foregoing reasons, the Commission should exercise its authority to grant ETC status to Western Wireless for the requested areas of Wyoming.

Respectfully submitted,



Lolita D. Smith  
Staff Counsel

Michael F. Altschul  
Vice President & General Counsel

Randall S. Coleman  
Vice President  
Regulatory Policy & Law

**CELLULAR TELECOMMUNICATIONS  
INDUSTRY ASSOCIATION**  
1250 Connecticut Avenue, N.W.  
Suite 800  
Washington, D.C. 20036

December 17, 1999